

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 1:24-mj-329

vs.

HON. SALLY J. BERENS
U.S. Magistrate Judge

KAI LIVINGSTON PACKER,

Defendant.

_____ /

UNOPPOSED MOTION TO DISMISS WITHOUT PREJUDICE

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, the United States Attorney for the Western District of Michigan hereby moves for leave of Court to dismiss the Complaint without prejudice against Defendant. The government consulted Defendant's counsel and Defendant does not oppose this motion.

"The principal object of the 'leave of court' requirement is apparently to protect a defendant against prosecutorial harassment, *e.g.*, charging, dismissing, and recharging, when the Government moves to dismiss an indictment over the defendant's objection." *Rinaldi v. United States*, 434 U.S. 22, 30 n.15 (1977). Courts employ a presumption that a prosecutor acts in good faith when seeking a dismissal without prejudice. *See, e.g. United States v. Palomares*, 119 F.3d 556, 558 (7th Cir. 1997) and *United States v. Dyal*, 868 F.2d 424, 428 (11th Cir. 1989). "[A] Rule 48 motion that is not motivated by bad faith is not clearly contrary to manifest public interest, and it must be granted." *United States v. HSBC Bank USA, N.A.*,

863 F.3d 125, 141 (2d Cir. 2017).

Defendant was arrested on the criminal complaint on August 14, 2024 in the District of Nevada and was placed on bond. Should the Court wish to inquire further on the reasons the government is bringing this motion, the government respectfully requests that the Court schedule a hearing at which the parties may appear.

Respectfully submitted,

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